UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KEITH SANTANGELO,	)	
	)	
Plaintiff,	)	Case No. 15-cv-0293
	)	
v.	)	Judge John Z. Lee
	)	
COMCAST CORP.,	)	
	)	
Defendant.	)	

AMENDED CLASS ACTION COMPLAINT

INTRODUCTION

1. Plaintiff Keith Santangelo brings this action against Defendant Comcast Corporation ("Comcast") because Comcast agreed that it would not pull Plaintiff's credit report if Plaintiff gave Comcast a $50.00 "deposit", but then pulled the credit report anyway after pocketing Plaintiff's money.

2. Comcast is engaged in this practice on a widespread basis. Numerous reports of consumers experiencing a credit inquiry from Comcast after paying a deposit to avoid said inquiry can be found on Comcast's Customer forums, including the following:

- See *http://forums.comcast.com/t5/Customer-Service/Credit-Check-after-paying-deposit/m-p/2015557/highlight/true#M49942* (Last visited December 30, 2014),
- http://forums.comcast.com/t5/Customer-Service/Why-Did-My-Credit-Get-Checked/m-p/1868237/highlight/true#M43847 (Last Visited December 30, 2014),
- http://forums.comcast.com/t5/Customer-Service/Comcast-Internet-Credit-check-scam/m-p/1766891/highlight/true#M39416 (Last visited December 30, 2014),
- http://forums.comcast.com/t5/Customer-Service/Unauthorized-and-Unannounced-

Credit-Check-Performed/m-p/1709403/highlight/true#M36749 (Last visited December 30, 2014),

- http://forums.comcast.com/t5/Customer-Service/Comcast-pulled-credit-without-permission/m-p/2138240/highlight/true#M54895 (Last visited December 30, 2014),
- http://forums.comcast.com/t5/Customer-Service/Ran-Credit-Without-Permission/m-p/1585397/highlight/true#M32370 (Last visited December 30, 2014),
- http://forums.comcast.com/t5/Customer-Service/comcast-put-a-hard-inquiry-on-equifax-credit-report-for-internet/m-p/2032665/highlight/true#M50649 (Last visited December 30, 2014).

3. Plaintiff therefore files this action both individually and on behalf of the classes defined below for violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq*. ("FCRA") and the Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA"), and for breach of contract, or in the alternative, unjust enrichment.

JURISDICTION

4. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 and 15 U.S.C. § 1681. Supplemental jurisdiction over the state law claims is conferred upon this Court by 28 U.S.C. § 1367.

5. Venue is proper because Mr. Santangelo resides in this district and a substantial portion of the events giving rise to this action occurred in this district.

PARTIES

6. Plaintiff Keith Santangelo is a natural person who resides in Chicago, Illinois.

7. Mr. Santangelo is a "consumer" as defined by the FCRA, 15 U.S.C. § 1681a(c).

8. Defendant Comcast Corporation is a cable television and internet service provider with its principal executive offices located at One Comcast Center, Philadelphia, PA 19103-2838.

9. Comcast is a user of consumer reports, as contemplated by the FCRA, 15 U.S.C. § 1681b.

FACTUAL ALLEGATIONS

10. At all times relevant to this action, Comcast's public website set forth its policy that prospective customers may bypass a credit check if they instead pay a deposit to Comcast.

11. At all times relevant to this action, Comcast maintained a written Risk Management Deposit Policy, which (1) expressly prohibits Comcast's procurement of a prospective customer's credit report if the prospective customer refuses to consent to the credit pull and (2) expressly provides that Comcast instead collect a $50 deposit from prospective customers who do not consent to the credit pull.

12. Pursuant to the same written Risk Management Policy, Comcast requires the same $50 deposit of any prospective customer whose credit report is unsatisfactory to Comcast.

13. This Risk Management Policy reflects Comcast's calculated business decision and belief that the collection of a $50 deposit is sufficient to cover the risk presented by a person with bad credit and is sufficient to cover the risk presented by a person who refuses a credit pull.

14. On or around December 3, 2014, Mr. Santangelo contacted Comcast, via Comcast's "Chat" function, to set up internet service in his new apartment.

15. During this communication, Comcast inquired if it had Plaintiff's permission to run a credit inquiry on Plaintiff.

16. During this communication and in response, Plaintiff inquired if there were any options available that did not require a credit inquiry, and Comcast informed Plaintiff that if Plaintiff paid Comcast $50 via a web portal, then it would not perform the credit inquiry.

17. During this communication, Plaintiff agreed to pay the $50 in lieu of Comcast obtaining his consumer report.

18. During this communication, Comcast created a web portal for Plaintiff to use in order to provide Comcast with Plaintiff's credit card information for the purposes of paying the $50.00 deposit.

19. While still engaged in this communication, Plaintiff used this web portal to pay Comcast the $50.00.

20. After Plaintiff completed the $50.00 deposit, Comcast proceeded by explaining its available internet service packages to Plaintiff and eventually processed an order for Comcast's "Blast Internet" service.

21. Despite Comcast's agreement to not perform the credit inquiry, and despite Plaintiff's deposit of $50 for the express purpose of preventing Comcast from performing a credit inquiry, Comcast obtained a credit report regarding Plaintiff the same day via a hard inquiry, which depleted Plaintiff's credit score.

22. Comcast's own written Risk Management Policy and policy set forth on its public website establish that Comcast had no legitimate business need to obtain Plaintiff's consumer report because he made the $50 deposit.

23. Comcast had no legitimate business need to obtain Plaintiff's consumer report because, under Comcast's own calculated business analysis, its acceptance of $50 is sufficient to alleviate the risk it faces from a person who refuses to consent to a credit pull.

24. Comcast further had no legitimate business need to obtain Plaintiff's consumer report because it was contractually obligated to NOT obtain Plaintiff's consumer report and could therefore only do so by breaching its contract with Plaintiff and its internal policies.

25. Despite having no legitimate business need to obtain Plaintiff's consumer report, Comcast nevertheless claimed that it had a permissible purpose when it obtained the consumer report from the credit reporting agency.

26. Comcast injured Plaintiff by its retention of his $50 deposit, depriving him of use of his money, by depleting his credit score, by invading his privacy, and by violating his rights under the FCRA.

27. Once Comcast obtained Plaintiff's consumer report, it no longer had any business need or justification to retain the $50 deposit because it no longer faced any unknown credit risk with respect to Plaintiff.

28. Once Comcast obtained Plaintiff's consumer report, it lost all rights to retain the $50 deposit.

CLASS ALLEGATIONS

29. This action is brought as a class action on behalf of the following classes:

The FCRA Class consists of:

> All natural persons residing in the United States or its Territories, (2) who were the subject of a consumer report obtained by Comcast during the ordering process, (3) after Comcast collected the credit inquiry deposit from the consumer, (4) during a period between two

> years prior to the filing of this complaint and twenty days after the filing of this complaint.

The IFCA Class consists of:

> All natural persons residing in Illinois, (2) who were the subject of a consumer report obtained by Comcast during the ordering process, (3) after Comcast collected the credit inquiry deposit from the consumer, (4) during a period between three years prior to the filing of this complaint and twenty days after the filing of this complaint.

The Breach of Contract Class

> All natural persons residing in the United States or its Territories, (2) who were the subject of a consumer report obtained by Comcast during the ordering process, (3) after Comcast collected the credit inquiry deposit from the consumer, (4) during the applicable statute of limitations

The Unjust Enrichment Class

> All natural persons residing in the United States or its Territories, (2) who were the subject of a consumer report obtained by Comcast during the ordering process, (3) after Comcast collected the credit inquiry deposit from the consumer, (4) during the applicable statute of limitations

30. Plaintiff seeks to represent and is a member of the proposed classes. Excluded from the classes are Defendant and any entities in which Defendant has a controlling interest, Defendant's agents and employees, the Judge to whom this action is assigned and any member of the Judge's staff and immediate family, and claims for personal injury, wrongful death and/or emotional distress.

31. Plaintiff does not know the exact number of members in each class, but based upon the size and national scope of Defendant and the number of internet complaints relating to this practice, Plaintiff reasonably believes that class members number at minimum in the hundreds if not thousands for each class.

32. Plaintiff and all members of the classes have been harmed by the acts of defendant as their personal and private financial information was disclosed without authorization. Further, members of the have been additionally harmed because they gave money to Defendant to prevent the disclosure of said information.

33. The joinder of all class members is impracticable due to the size of each class and relatively modest value of each individual claim. The disposition of the claims in a class action will provide substantial benefit the parties and the Court in avoiding a multiplicity of identical suits. The classes can be identified easily through records maintained by Comcast.

34. There are questions of law and fact common to the members of each class, which common questions predominate over any questions that affect only individual class members. Those common questions of law and fact include, but are not limited to, the following:

a. Whether Comcast had a permissible purpose to obtain the consumer reports regarding Plaintiff and the members of the class under the FCRA;

b. Whether Comcast engaged in a deceptive practice under the ICFA;

c. Whether Comcast engaged in an unfair practice under the ICFA;

d. Whether Comcast breached its agreement to not obtain the consumer reports upon deposit of $50;

e. Whether Comcast was unjustly enriched by its retention of the $50 deposits.

35. As a person who had his consumer report obtained under the same circumstances, Plaintiff asserts claims that are typical of the members of each class. Plaintiff will fairly and adequately represent and protect the interests of the classes, and has no interests which are antagonistic to any member of the classes.

36. Plaintiff has retained counsel experienced in handling class action claims involving violations of federal and state consumer protection statutes such as the FCRA.

37. A class action is the superior method for the fair and efficient adjudication of this controversy. Class wide relief is essential to compel defendant to comply with the FCRA. The interest of class members in individually controlling the prosecution of separate claims against Defendant is small because the statutory damages in an individual action for violation of the FCRA are small. Management of these claims is likely to present significantly fewer difficulties than are presented in many class claims because the calls at issue are all automated and the class members, by definition, did not provide the prior express consent required under the statute to authorize calls to their cellular telephones.

38. Defendant has acted on grounds generally applicable to the classes, thereby making final injunctive relief and corresponding declaratory relief with respect to the classes as a whole appropriate. Moreover, Plaintiff alleges that the FCRA violations complained of herein are substantially likely to continue in the future if an injunction is not entered.

COUNT I - Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq*.

39. Plaintiff incorporates the preceding paragraphs herein.

40. Defendant violated 15 U.S.C. § 1681b(f) by obtaining consumer reports without a permissible purpose.

41. Comcast knew that it did not have a legitimate business need to obtain the consumer report because Comcast's own written Risk Management Policy and policy set forth on its public website establish that Comcast had no legitimate business need to obtain Plaintiff's consumer report because he made the $50 deposit, which was sufficient to cover the risk presented by

Plaintiff.

42. Further, Comcast did not have a legitimate business need to obtain Plaintiff's consumer report because it was contractually obligated to not obtain Plaintiff's consumer report and therefore could only do so by breaching its contract with Plaintiff.

43. Comcast violated sections 1681n(a)(1)(B), 1681n(b), and 1681q by obtaining Plaintiff's consumer report under false pretenses because it did not have a legitimate business need to obtain the consumer report but nevertheless claimed that it had a permissible purpose in order to obtain the consumer report.

WHEREFORE, for the reasons set forth above, Mr. Santangelo requests that the Court grant the following relief on behalf of himself and class:

a. Actual and/or Statutory damages for plaintiff and the class;

b. Punitive damages for plaintiff and the class in an amount to be determined at trial;

c. Costs and attorney fees provided by statute;

d. Any other relief the Court deems just.

COUNT II - Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505

44. Plaintiff incorporates the preceding paragraphs herein.

45. Defendant violated 815 ILCS 505/2 by using unfair and deceptive business acts and practices.

46. Defendant used deceptive acts and practices by promising that it would not obtain consumer reports about consumers if they paid it $50 and then pulling the consumer reports anyway after pocketing the money.

47. Defendant intended that Plaintiff and the class rely on this deception, who in fact did rely on this deception as evidenced by their deposits of $50.

48. Defendant intent for the class to rely on this deception is further evidenced by the fact that Comcast facilitated the deposits of $50 by providing a web portal to process the deposit in real time.

49. Defendant's deception occurred during a course of conduct involved trade or commerce – Comcast's sale and provision of internet and cable communication services.

50. Defendant engaged in unfair business practices via the same conduct.

51. Defendant's conduct offends public policy because it is akin to a widespread fraud, violates federal law, harms consumers, and harm's consumer trust in the communications industry and credit reporting industry.

52. Defendant's conduct is immoral, unethical, oppressive, and unscrupulous because Comcast is lying to its potential customers resulting in its own financial gain.

53. Defendant's conduct causes substantial injury to consumers via Comcast's retention of their $50 deposits, invasions of their privacy, depletions of their credit scores, and violations of their rights under federal law.

WHEREFORE, for the reasons set forth above, Mr. Santangelo requests that the Court grant the following relief on behalf of himself and class:

a. actual damages for plaintiff and the class;

b. injunctive relief;

c. Punitive damages for plaintiff and the class in an amount to be determined at trial;

d. Costs and attorney fees provided by statute;

e. Any other relief the Court deems just.

COUNT III – Breach of Contract

54. Plaintiff incorporates the preceding paragraphs herein.

55. It is Comcast's corporate policy to not obtain a credit report on any prospective consumer who opts to pay Comcast $50 instead.

56. Pursuant to its written Risk Management Policy and the policy set forth on its public website, Comcast offered that Plaintiff and the class members could pay Comcast $50 in exchange for Comcast's agreement that it would not perform a credit inquiry.

57. Plaintiff and the putative class all accepted Comcast's offer and paid the $50.00.

58. Comcast breached the contract by obtaining consumer reports of Plaintiff and the putative class despite receipt of the $50 deposit.

59. Plaintiff and the putative class have been harmed as they would not have paid the $50 except for Comcast's promise not to obtain their consumer reports.

60. In Plaintiff's case, his FICO score dropped as a result of the impermissible pull of his credit and he paid and lost the use of his $50.

WHEREFORE, for the reasons set forth above, Mr. Santangelo requests that the Court grant the following relief on behalf of himself and the class:

a. Actual damages;

b. Any other relief the Court deems just.

COUNT IV – Unjust Enrichment (Plead In The Alternative)

61. Plaintiff incorporates the preceding paragraphs herein.

62. It is Comcast's corporate policy to not obtain a credit report on any prospective consumer who opts to pay Comcast $50 instead.

63. It is Comcast's corporate policy that any prospective customer who does not want Comcast to perform a credit inquiry may pay Comcast $50 in exchange for Comcast's agreement that it will not perform a credit inquiry.

64. Comcast has obtained consumer reports of Plaintiff and the putative class despite receipt of their $50 deposits.

65. Comcast has been unjustly enriched at the expense of Plaintiff and the class as it has retained the $50 deposit even though it obtained the consumer report.

66. Accordingly, Plaintiff and the members of the class seek full disgorgement and restitution of Comcast's enrichment, benefits and ill-gotten gains acquired as a result of the wrongful conduct alleged herein.

WHEREFORE, for the reasons set forth above, Mr. Santangelo requests that the Court grant the following relief on behalf of himself and the class:

a. Disgorgement and restitution of Comcast's enrichment;

b. Punitive damages in an amount to be determined at trial;

c. Any other relief the Court deems just.

Dated: June 11, 2015

Respectfully Submitted,

s/ Keith J. Keogh
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JURY DEMAND

Mr. Santangelo demands trial by jury.

s/ Keith J. Keogh
Keith J. Keogh